

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

LINDA SCHULTZ,

Plaintiff,

v.

THE DEPARTMENT OF WORKFORCE DEVELOPMENT,

Defendant.

ORDER

09-cv-274-slc

On September 15, 2010, this court granted the defendant's motion to compel, (dkt. 70) and granted its request for cost-shifting, inviting additional input on the latter point. *See* dkt. 89.¹ Today, after obtaining summary judgment in its favor, the state reminded the court that it never had ruled on the cost-shifting request.

The state timely submitted an itemized request for \$8980 based on 24 hours of work at \$350/hr. by lead counsel and two hours of work at \$290/hr. by lawyer #2, based on the estimated market value of the attorneys' time. *See* dkt. 90. Schultz opposes the fee request, first because her resistance to the discovery ultimately ordered by the court was substantially justified, and second because the time claimed is unreasonably high. Schultz suggests that fair recompense under the circumstances would be between \$2100 and \$2800. *See* dkt. 95.

Pursuant to F.R. Civ. Pro. 37(a)(5), this court must require Schultz and/or her attorney to pay the state's reasonable expenses incurred in resolving this discovery dispute unless Schultz was substantially justified in her resistance or the circumstances make an award unjust. Applying these factors to the instant case leads me to conclude at this time that Schultz and her attorney should reimburse the state \$2100 against its costs incurred in this discovery dispute.

¹As part of the mix, Schultz filed then withdrew a counter-motion for protection, dkt. 67 & 77, which prompted a response from the state, dkt. 81.

Therefore, pursuant to F.R. Civ. Pro. 37(a)(5), it is ORDERED plaintiff Linda Schultz and her attorneys are jointly and severally liable to pay \$2100 to the Wisconsin Attorney General's Office not later than April 4, 2011.

Entered this 4th day of March, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge